



**Republic of the Philippines
Supreme Court
Baguio City**

SECOND DIVISION

**BENJAMIN L. VERGARA, JONA M.
SARVIDA and JOSEPHINE P.
SABALLA ,**

Petitioners,

- versus -

G.R. No. 192320

Present:

CARPIO, J., Chairperson,
*VELASCO, JR.,**
BRION,
MENDOZA, and
LEONEN, JJ.

Promulgated:

04 APR 2016

ATTY. EUSEBIO I. OTADOY, JR.,
Respondent.

X-----X

DECISION

BRION, J.:

We resolve the petition for review on *certiorari* filed by the petitioners to challenge the June 30, 2009 decision¹ and May 11, 2010 resolution² of the Court of Appeals (CA) in CA-GR SP No. 100262. The CA decision reversed the Regional Trial Court's (RTC) orders³ which denied the respondent's motion to postpone the pre-trial conference and which adopted the evidence that the petitioners had previously presented.

* Designated as Additional Member in lieu of Associate Justice Mariano C. Del Castillo; per Raffle dated February 15, 2016.

¹ Penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Mariano C. Del Castillo (now with the Supreme Court) and Priscilla J. Baltazar-Padilla. *Rollo*, pp. 20-30.

² Penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Juan Q. Enriquez Jr. and Sesinando E. Villon.

³ RTC Orders dated March 12, 2007 and July 13, 2007. *Rollo*, pp. 100-107.

FACTUAL BACKGROUND

This case stemmed from a petition for *habeas corpus* decided by this Court in G.R. 154037.⁴ In that case, the petitioners were arrested for indirect contempt because they refused to comply with the probate court's order to pay rentals to Anselma Allers' estate. This Court ruled that their imprisonment was unwarranted as it violated the constitutional prohibition against imprisonment for nonpayment of debt.

Armed with this ruling, on January 12, 2004, the petitioners Benjamin L. Vergara, Jona M. Sarvida, and Josephine P. Saballa filed a civil action for damages against respondent Atty. Eusebio I. Otadoy, Jr. and three other persons (*defendants*). Atty. Otadoy served as the administratrix's counsel in G.R. No. 154037. The petitioners alleged that they were unjustly detained as a result of Atty. Otadoy's fraudulent practices.

On March 4, 2004, the petitioners filed a motion to admit an amended complaint which the RTC granted.

When the defendants failed to file their answers, the petitioners moved to declare the defendants in default and to allow the petitioners to present evidence *ex parte*. These were granted in the RTC's order dated September 17, 2004.

Atty. Otadoy, representing himself, filed several motions for reconsideration of the RTC's order. He alleged that he did not receive the amended complaint.

Meanwhile, the petitioners presented their evidence *ex parte* on September 27, 2004 and October 11, 2004.

On February 8, 2005, the RTC granted Atty. Otadoy's motion to set aside the default order. It also directed the petitioners to serve a copy of the amended complaint on Atty. Otadoy.

The court scheduled the pre-trial conference on March 12, 2007, at 1:30 in the afternoon.

Atty. Otadoy filed a motion to postpone the pre-trial conference to April 20, 2007. He claimed that on March 4, 2007, he was invited to deliver a lecture at the National Annual Lectureship of the Church of Christ on March 11-14, 2007. As a minister and evangelist of that church, he chose to accept the invitation rather than attend the pre-trial conference. Without waiting for a ruling on his motion, Atty. Otadoy proceeded to attend the lecture in Zamboanga.

⁴ In the Matter of the Petition for Habeas Corpus of Benjamin Vergara, Jona Sarvida, Milagros Majoremos, Majorie Jalalon, May Joy Mendoza (@May Joy Sandi), and Joy Saballa (@Josephine Saballa), Mabelyn B. Vergara, Rio Sarvida, Francisco Majoremos, in their respective behalf and in behalf of Roy Jalalon, Rommel Mendoza, and Delfin Saballa, 450 Phil. 623-624 (2003).

At the pre-trial conference, the petitioners' counsel opposed the motion to postpone the pre-trial conference arguing that Atty. Otadoy failed to file a pre-trial brief and that his motion was filed late. The petitioners' counsel moved that he be allowed to present his evidence *ex parte* as stated in Section 5, Rule 18 of the Rules of Court. He also moved that the court adopt the evidence that he had previously presented.

The RTC granted his motions and considered the case submitted for resolution.

Atty. Otadoy filed his pre-trial brief only on April 11, 2007. He also filed a motion for reconsideration on April 20, 2007, which the RTC denied.

Atty. Otadoy responded by filing a petition for *certiorari* with the CA.

THE CA RULING

The CA granted Atty. Otadoy's petition. It noted that Atty. Otadoy should be blamed for not appearing at the pre-trial and for presuming that his motion would be granted *ipso facto*. Nevertheless, Atty. Otadoy only asked once for the postponement of the pre-trial proceedings during the entire duration of the case. The RTC should have placed greater premium on safeguarding a litigant's fullest opportunity to establish his case than on technicalities. Thus, the CA opined that the RTC should have granted Atty. Otadoy's motion to postpone.

The CA denied the petitioners' motion for reconsideration; hence, this petition.

THE PARTIES' ARGUMENTS

In their present petition, the petitioners argue that the CA incorrectly ruled that the RTC committed grave abuse of discretion in denying Atty. Otadoy's urgent motion to postpone dated March 6, 2007.

First, a mere error of judgment does not constitute grave abuse of discretion unless attended by personal biases, whims, and caprices, which were not proven here. Moreover, the CA did not refer to any law or rule that the RTC violated in granting the petitioners' motions.

Second, Atty. Otadoy did not submit any proof that he indeed attended the conference. Despite this lack of evidence, the CA reversed the RTC's order denying his motion for postponement.

In his comment, the respondent argues that the CA's decision is supported by facts and jurisprudence. He argues that his motion to postpone was timely filed by registered mail on March 7, 2007, or six (6) days before

the scheduled pre-trial conference. He claims that by denying his motion, the RTC deprived him of his day in court.

OUR RULING

We GRANT the petition.

The issue to be resolved here is whether the RTC committed grave abuse of discretion in denying Atty. Otadoy's motion to postpone the pre-trial conference.

A ruling that precludes a party from presenting evidence, such as an order of default, must have basis in law; otherwise, it is issued with grave abuse of discretion.⁵

In the present case, the RTC had legal basis to deny the motion for postponement as explained more fully below. Thus, we rule that the RTC did not commit grave abuse of discretion in denying Atty. Otadoy's motion.

Motion to Postpone is a privilege, not a right.

Pre-trial answers the call for the speedy disposition of cases.⁶ Under Rule 18 of the Rules of Court, the counsels and the parties are mandated to appear at pre-trial.⁷ Their non-appearance may be excused only if there is a **valid cause** or if a representative appears on their behalf.⁸ If the defendant fails to appear, the RTC may allow the plaintiff to present evidence *ex parte* and may render judgment based on it.⁹

This Court has ruled that a motion for postponement is a privilege and not a right.¹⁰ The movant should not assume that his motion would be granted.¹¹

In deciding whether to grant or deny a motion to postpone the pre-trial, the court must take into account two factors: (a) the reason given, and (b) the merits of the movant's case.¹²

In *Philippine Transmarine Carriers, Inc., et al. v. Song*,¹³ the defendants' counsel moved to postpone the pre-trial due to his illness. The trial court denied the motion because the movant did not attach any

⁵ *Paredes v. Verano*, G.R. No. 164375, October 12, 2006, 504 SCRA 278.

⁶ *Philippine American Life & General Insurance Company v. Enario*, G.R. No. 182075, September 15, 2010, 630 SCRA 607.

⁷ Rules of Court, Rule 17, Section 4.

⁸ *Id.*

⁹ *Id.*, Section 5.

¹⁰ *Supra* note 6.

¹¹ *Id.*

¹² *Id.*

¹³ G.R. No. 122346, February 18, 2000, 326 SCRA 18-19.

supporting medical certificate. In the motion for reconsideration, the defendants' counsel attached a duly notarized medical certificate and an affidavit of merit that he signed. The trial court, however, also denied the motion for reconsideration.

When the case reached this Court, we ruled that the trial court should have granted the motion for reconsideration after the notarized medical certificate was submitted, following the rationale we discussed below.

On the basis of this precedent, the question now for us is whether Atty. Otadoy presented a **valid cause to postpone** the pre-trial conference.

We note that Atty. Otadoy's failure to attach proof that he attended the alleged lectureship weighs heavily against him. He had many opportunities to submit proof of his attendance. He could have attached this proof in his motion for reconsideration, in his petition before the CA, or in this petition. Yet, he failed to do so. Thus, we find that he did not sufficiently establish a valid cause to postpone the pre-trial conference, giving the RTC a firm legal basis to deny his motion and to declare him in default.

Strict application of procedural rules

The CA acknowledged Atty. Otadoy's fault. However, it added that the courts should not be overly strict in applying procedural rules. It cited *Africa v. Intermediate Appellate Court, et al.*¹⁴ and *RN Development Corporation v. A.I.I. System, Inc.*¹⁵

In those cases, the judges declared the parties in default only because their lawyers were late: for ten minutes in *Africa* and for four minutes in *RN Development*.

In the present case, Atty. Otadoy not only failed to appear during pre-trial; he also failed to file the mandatory pre-trial brief within the prescribed time.

To be sure, judicial action must be guided by the principle that a party-litigant must be given the fullest opportunity to establish the merits of his case.¹⁶ Rules of procedure, however have their own reasons for their existence; they are with us to ensure prompt, speedy, and orderly dispensation of justice. This competing reason must be weighed and balanced against the admittedly weightier need to give litigants their day in court. When procedural rules are at the point of being abused, such as when the litigant fails to establish a valid cause to postpone the proceedings, procedural rules cannot and must not be brushed aside.

¹⁴ G.R. No. 76372, August 14, 1990, 188 SCRA 586-587.

¹⁵ G.R. No. 166104, June 26, 2008, 555 SCRA 513-514.

¹⁶ *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, G.R. No. 170488, December 10, 2012, 687 SCRA 469.

In *Philippine Transmarine Carriers*, the Court considered that the motion was the first postponement that the defendants requested only after finding that there was a valid cause to postpone.

In this petition, although Atty. Otadoy requested for postponement only once, he failed to show a valid cause to justify his request; thus, the RTC did not legally err in denying his motion to postpone.

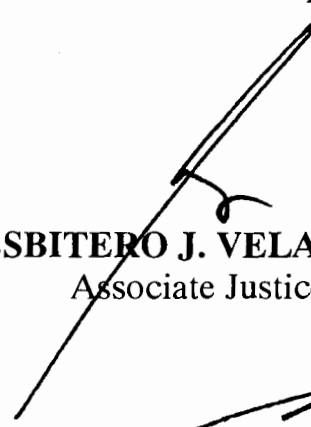
WHEREFORE, we **GRANT** the petition. The June 30, 2009 decision and May 11, 2010 resolution of the Court of Appeals in CA-GR SP No. 100262 are **REVERSED**. The Regional Trial Court's order dated March 12, 2007, is hereby **REINSTATED**.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



PRESBITERO J. VELASCO, JR.
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M. V. F. LEONEN
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice